



## **AGREEMENT FOR CLINICAL EQUIPMENT OR CONSUMABLES ON LOAN OR TRIAL**

This agreement is between:

**The Minister for Health** who has delegated his responsibilities to the Director General of the Department of Health represented by [*insert name of facility*] ("**Health Service**")

and

[*insert name, address and ABN of Supplier*] ("**Supplier**")

1. This agreement starts and finishes on the dates specified below ("**Period**").
2. The Supplier agrees to deliver and install the equipment described below ("**Equipment**") at the Health Service's premises at the beginning of the Period and to remove the Equipment from the Health Service's premises at the end of the Period.
3. The Health Service may direct the Supplier to remove the Equipment at any time.
4. The Health Service and Supplier may agree in writing to extend the Period or by completing another agreement.
5. If the Supplier does not remove the Equipment at the end of the Period, the Health Service may, after the expiration of 28 days from the end of the Period, and at the Supplier's expense, have the Equipment removed from the Health Service's premises and returned to the Supplier's premises.
6. The Supplier agrees to provide all information necessary for the safe operation of the Equipment.
7. The Health Service agrees to utilise the Equipment with reasonable care but, except to the extent any damage to, or loss of, the Equipment is caused or contributed to by the Health Service, it is not liable for any damage to, or loss of, the Equipment, whilst it is in the Health Service's premises.
8. Except to the extent caused or contributed to by the Health Service, the Supplier agrees that it is liable for any damage to the Health Service's property or injury to persons (including death) caused by the Equipment when the Equipment is used with reasonable care and according to the information given by the Supplier.
9. The Supplier indemnifies and will keep indemnified the Health Service, the State of Western Australia and their respective officers, employees, agents and contractors ("**Indemnified**") in regards to any claims, damages, expenses and losses, which the Indemnified may suffer or incur arising out of or in connection with any injury to persons (including death) or any damage to any property that may arise from the maintenance, transport, installation, or faulty design or manufacture of the

Equipment, or any other negligence of the Supplier or its officers, employees, agents or contractors.

10. All costs associated with delivery, installation, maintenance, and removal of the Equipment shall be borne by the Supplier unless otherwise agreed in writing.
11. The Supplier at no cost to the Health Service shall provide all consumable items required for normal operation of the Equipment over the Period unless otherwise agreed in writing.
12. During the Period, the Health Service agrees to give the Supplier reasonable access to the Equipment for the purpose of demonstration to interested parties, provided the Supplier gives at least 24 hours notice. The Health Service reserves the right to deny access at any stage. All visitor's must at all times comply with all occupational, health and safety requirements of the Health Service.
13. The Health Service's authorised representative agrees to give verbal reports to the Supplier regarding the function of the equipment if requested to do so.
14. Notwithstanding the following provisions the Supplier warrants that the Equipment is safe, meets all relevant Australian Standards, and if required is appropriately licensed by all relevant authorities. Prior to demonstration or use, the Equipment will be tested for safety as specified in AS 3551 by the Health Service's Department of Biomedical Engineering. The Health Service may refuse to accept any Equipment that is considered unsafe or does not comply with Australian Standards.
15. The Supplier acknowledges that there is no obligation on the Health Service to purchase the Equipment.
16. The following insurances must be effected by the Supplier:
  - (a) public and products liability insurance covering the legal liability of the Supplier and its officers and employees:
    - (i) not less than \$10 million for any one occurrence;
    - (ii) either unlimited in the aggregate in respect of public liability, or if limited in the aggregate, limited to an aggregate amount in respect of public liability acceptable to the Health Service; and
    - (iii) limited in the annual aggregate to \$10 million in respect of products liability; and
  - (b) workers' compensation insurance in accordance with the provisions of the Workers' Compensation and Injury Management Act 1981 (WA), including cover for common law liability for an amount of not less than \$50 million for any one occurrence in respect of workers of the Supplier. .

If the Supplier acts through a 3<sup>rd</sup> party it must ensure that any such person has similar insurances in place.

Any policy of insurance taken out by the Supplier under this agreement must be taken out with a reputable and solvent insurer which carries on business in Australia and is authorised by the Australian Prudential Regulation Authority.

The Supplier must:

- (a) punctually pay all premiums and amounts necessary for effecting and keeping current the insurance required under this clause;
- (b) not vary or cancel any insurance required under this clause or as otherwise required under this agreement or otherwise do or allow to be done anything which may vitiate, invalidate, prejudice or render ineffective the insurance or entitle the insurer to refuse a claim; and
- (c) without limiting the preceding paragraph, promptly reinstate any insurance required if it lapses or if cover is exhausted.

The Supplier must give to the Health Service sufficient evidence of the insurance required under this clause (including, if requested, a copy of any policy) and provide a certificate of currency of insurance as requested by the Health Service at any time.

If the Supplier becomes aware of any event or incident occurring which gives rise or is likely to give rise to a claim under any insurance required under this agreement, it must as soon as reasonably practicable notify the Health Service in writing of that event or incident.

- 17. The Supplier will fully cooperate with the Health Service in investigating any adverse event arising out of or in connection with the use of the Equipment.

Trial start date:

Trial end date:

Description of Equipment:

Model Number:

**SUPPLIER REPRESENTATIVE**

Signed on behalf of the Supplier: \_\_\_\_\_  
(who warrants and represents to the Health Service that he/she is duly authorised to execute this agreement)

Name:

Position:

Supplier:

Date:

**HEAD OF DEPARTMENT**

Signed on behalf of the CE (*insert AHS name*): \_\_\_\_\_

Name:  Position:

Department  Date:

**CHAIR OF PRODUCT EVALUATION COMMITTEE**

Signed on behalf of the Minister for Health: \_\_\_\_\_

Name:  Position:

Health Service:  Position:

**Please forward Completed forms to the following:**

South Metropolitan Area Health Service (excluding RPH)	FHHS PESC	<a href="mailto:fh.pesc@health.wa.gov.au">fh.pesc@health.wa.gov.au</a>
RPH	RPH PESC	<a href="mailto:rph.pesc@health.wa.gov.au">rph.pesc@health.wa.gov.au</a>
SCGH	SCGH PESC	<a href="mailto:scgh.pesc@health.wa.gov.au">scgh.pesc@health.wa.gov.au</a>
KEMH	KEMH PESC	<a href="mailto:kemh.pesc@health.wa.gov.au">kemh.pesc@health.wa.gov.au</a>

**OR the administering Hospital PESC if not covered by the above.**

**Rural hospitals should forward completed forms to their Regional Corporate Services Manager for retention**